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10/525,308

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EXAMINER

MOORER, CELENE NICOLE

ART UNIT

PAPER NUMBER

4138

MAIL DATE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/525,308	Applicant(s) BAUER ET AL.	
	Examiner CELENE MOORER	Art Unit 4138	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/22/2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/22/2005</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Method for filling at least two inflatable portions and pneumatic circuit for carrying out the method.

2. The disclosure is objected to because of the following informalities: The word "one" should be replaced by "on" in the specification in paragraph 0040.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-9 provide for the use of acting upon at least two recipients of a pneumatic system in an alternating manner, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claims 1-9 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1- 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

As to claims 1-3, 5-13, and 20, the two recipients (10, 11, 12) are used interchangeably with the word cushion (10, 11, 12) throughout all of the above claims. Based on the specification, the examiner interpreted “recipient” and ‘cushion” to mean the disclosed inflatable portions.

As to claims 1, 8, 10, 13, 14 and 20, it is unclear as to what is meant by pressure medium flow. Based on the specification, the examiner interpreted pressure medium flow as pressure that flows into each of the inflatable portions (recipients).

As to claims 1, 5, 6, 7, 8, 9, 10, and 20, it is unclear as to what is meant by alternating manner. Based on the specification, the examiner interpreted alternating manner as filling one inflatable portion of the system while the other inflatable portion is either deflated or removed.

As to claims 8, 9, 12, 13, 14, and 18, it is unclear as to what is meant by the pressure side and suction side of the feed pump. Based on the specification,

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the examiner interpreted the pressure side as the side of the pump that distributes the working fluid into the inflatable recipient and the suction side as the side of the pump that receives outgoing air from the deflated recipient.

As to claim 17, it is unclear as to what is meant by vane-cell pump. Based on the specification, the examiner interpreted vane-cell pump as a pump that can reverse rotational direction.

7. Claim 6 recites the limitation "the vehicle" in the last line of the claim. There is insufficient antecedent basis for this limitation in the claim.

8. Regarding claims 10, 11, 15, and 16 the word "means" is preceded by the word(s) "driving; connecting; pressure control" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1, 2, 5-14 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,005,904 to *Clemens et. al.*, as understood.

As to claim 1, *Clemens et. al.* discloses at least two recipients (1,2) of a pneumatic system in an alternating manner, in particular a pneumatic massage system of a motor vehicle seat, with a pressure medium flow, characterized in that at least one, first air cushion (1,2) that serves as a recipient (1,2) is filled with a gaseous working fluid, while the working fluid is actively suctioned off from at least one other second air cushion (1,2) (Column 3, Lines 10-18).

As to claim 2, the pressure in the at least one to be emptied recipient (1, 2) is used to fill the at least one, to be filled air cushion (1, 2) (Column 3, Lines 13-18).

As to claim 5, the final pressure in the at least one, to-be-filled recipient (1, 2) and/or frequency of the working fluid upon at least two recipients (1, 2) in an alternating manner is/are presettable (Column 3, Lines 5-18, 28-31, 35-37).

As to claim 6, the final pressure in the at least one, to-be-filled recipient (1, 2) and/or frequency of the working fluid upon at least two recipients (1, 2) in an alternating manner is/are presettable manually via corresponding operating elements (8, 9, 10) in the vehicle (Column 3, Lines 5-11).

As to claim 7, the final pressure in the at least one, to-be-filled recipient (1, 2) and/or frequency of the working fluid upon at least two recipients (1, 2) in an alternating manner is preset by a control unit (7) in

accordance with the signals of at least one sensor (5), in particular a sensor to disable the pump when the pressure within the associated bag reaches a pre-set maximum.

As to claim 8, the final pressure in the at least one, to-be-filled recipient (1, 2) and/or frequency of the working fluid upon at least two recipients (1, 2) in an alternating manner is controlled or regulated by a constrictor (Page 2, Lines 46-49) of the pressure medium flow on the pressure side (Drawing- Refer to side of feed pump where reference numbers 5 and 3 are located) of the feed pump (4), in particular an electronic circuit (Page 2, Lines 46-49).

As to claim 9, the final pressure in the at least one, to-be-filled recipient (1, 2) and/or frequency of the working fluid upon at least two recipients (1, 2) in an alternating manner is controlled or regulated by actuating a bypass (Page 2, Lines 28-32) between the suction side (Drawing- Refer to side of feed pump where reference numbers 6 is located) and the pressure side (Drawing- Refer to side of feed pump where reference numbers 5 and 3 are located) of the feed pump (4, Page 3, Column 4, Lines 51-56).

As to claim 10, pneumatic circuit (Column 1, Lines 65-67) of a pneumatic system in an alternating manner (Column 1, Lines 14-19), in particular a pneumatic massage system of a motor vehicle seat (Column 1, Lines 10-14), with a pressure medium flow, with at least two recipients

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(1, 2) to alternately receive a pressure medium flow with at least one pump (4) conveying the pressure medium flow as well as the driving means (Column 2, Lines 6-7) for the feed pump (4) with the connecting means (3) between the feed pump (4) and the recipients (1, 2) to be acted upon by the working fluid, characterized in that the at least one, first recipient (1, 2) is connected to the at least one, second recipient (1, 2) via the connecting means (3) and the feed pump (4).

As to claim 11, pneumatic circuit characterized in that the at least two recipients (1, 2) are connected to the at least one feed pump (4) via the connecting means (3) in such a way that the working fluid pumped out of the at least one, first recipient (1, 2) can be supplied to the at least second recipient (1, 2) (Column 3, Lines 10-18).

As to claim 12, pneumatic circuit characterized in that the suction side (Drawing- Refer to side of feed pump where reference numbers 6 is located) of the at least one feed pump (4, Page 3, Column 4, Lines 51-56) is connected to at least one, first recipient (1, 2), while the pressure side (Drawing- Refer to side of feed pump where reference numbers 5 and 3 are located) of the feed pump (4, Page 3, Column 4, Lines 51-56) is simultaneously connected to the at least one, second recipient (1, 2).

As to claim 13, pneumatic circuit characterized in that the suction side (Drawing- Refer to side of feed pump where reference numbers 6 is located) of the feed pump (4, Page 3, Column 4, Lines 51-56) is

connected to at least one first recipient (1, 2) via a component (5) controlling the pressure medium flow, while the pressure side (Drawing- Refer to side of feed pump where reference numbers 5 and 3 are located) of the pump (4, Page 3, Column 4, Lines 51-56) is simultaneously connected to the at least one, second recipient (1, 2).

As to claim 14, pneumatic circuit characterized in that the pressure side (Drawing- Refer to side of feed pump where reference numbers 5 and 3 are located) of the feed pump (4, Page 3, Column 4, Lines 51-56) is also connected to the same component (5) controlling the pressure medium flow.

As to claim 20, vehicle seat (Claim 1), in particular for a motor vehicle (Claim 1), with at least two recipients (1, 2) integrated into the seat (Claim 1), which recipients are to be acted upon in an alternating manner with a pressure medium flow, characterized in that at least one, first cushion (1, 2) that serves as a recipient (1, 2) is filled with a gaseous working fluid, while the working fluid is actively suctioned off from at least one other, second cushion (1, 2) (Column 3, Lines 10-18).

11. Claims 1-5, 7-8, and 10-19 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,175,297 in view of *Robbins et. al.*

As to claim 1, *Robbins et al.* discloses at least two recipients (20a, 20b) of a pneumatic system in an alternating manner (Column 4, Lines 17-24), in particular a pneumatic massage system of a motor vehicle seat,

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with a pressure medium flow, characterized in that at least one, first air cushion (20a, 20b) that serves as a recipient (20a, 20b) is filled with a gaseous working fluid, while the working fluid is actively suctioned off from at least one other second air cushion (20a, 20b) (Column 3, Lines 64-67).

As to claim 2, the pressure in the at least one to be emptied recipient (20a, 20b) is used to fill the at least one, to be filled air cushion (20a, 20b).

As to claim 3, the alternate filling of at least two air cushions (20a, 20b) is achieved by the reversal of the rotational direction of a pump (40) conveying the working fluid (Column 3, Lines 60-68; Claim 1).

As to claim 4, the motor speed of a motor driving the feed pump (40), in particular an electric motor (62), is presettable (Column 5, Lines 3-12).

As to claim 5, the final pressure in the at least one, to-be-filled recipient (20a, 20b) and/or frequency of the working fluid upon at least two recipients (20a, 20b) in an alternating manner is/are presettable (Column 7, Lines 13-15).

As to claim 7, the final pressure in the at least one, to-be-filled recipient (20a, 20b) and/or frequency of the working fluid upon at least two recipients (20a, 20b) in an alternating manner is preset by a control unit (60) in accordance with the signals of at least one sensor (30), in particular to engage and transmit the pressurized fluid or air into either the

first or second tube for inflating the respective set of recipients (20a,20b) (Column 6, Lines 61-64).

As to claim 8, the final pressure in the at least one, to-be-filled recipient (20a, 20b) and/or frequency of the working fluid upon at least two recipients (20a, 20b) in an alternating manner is controlled or regulated by a constrictor (Column 4, Lines 18-21) of the pressure medium flow on the pressure side (Column 4, Lines 37-40; 53-56) of the feed pump (40), in particular a valve (Column 4, Lines 18-21).

As to claim 10, pneumatic circuit (Figure 1) of a pneumatic system in an alternating manner (Column 6, Lines 61-68), in particular a pneumatic massage system of a motor vehicle seat (Column 1, Lines 10-14), with a pressure medium flow, with at least two recipients (1, 2) to alternately receive a pressure medium flow with at least one pump (4) conveying the pressure medium flow as well as the driving means (Column 6, Lines 56-61) for the feed pump (40) with the connecting means (32, 26, 28) between the feed pump (40) and the recipients (20a, 20b) to be acted upon by the working fluid, characterized in that the at least one, first recipient (20a, 20b) is connected to the at least one, second recipient (20a, 20b) via the connecting means (32, 26, 28) and the feed pump (40). (Column 6, Lines 56-68; Column 7, Lines 1-4).

As to claim 11, pneumatic circuit characterized in that the at least two recipients (20a, 20b) are connected to the at least one feed pump (40)

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via the connecting means (28, 26) in such a way that the working fluid pumped out of the at least one, first recipient (20a, 20b) can be supplied to the at least second recipient (20a, 20b) (Column 4, Lines 17-24).

As to claim 12, pneumatic circuit characterized in that the suction side (Column 4, Lines 41-44,56-59) of the at least one feed pump (40) is connected to at least one, first recipient (20a, 20b), while the pressure side (Column 4, Lines 37-40; 53-56) of the feed pump (40) is simultaneously connected to the at least one, second recipient (20a, 20b) (Column 4, Lines 9-20).

As to claim 13, pneumatic circuit characterized in that the suction side (Column 4, Lines 41-44,56-59) of the feed pump (40) is connected to at least one first recipient (20a, 20b) via a component (Column 4, Lines 17-24) controlling the pressure medium flow, while the pressure side (Column 4, Lines 37-40; 53-56) of the pump (40) is simultaneously connected to the at least one, second recipient (20a, 20b).

As to claim 14, pneumatic circuit characterized in that the pressure side (Column 4, Lines 53-56) of the feed pump (40) is also connected to the same component (Column 4, Lines 17-24) controlling the pressure medium flow (Column 6, Lines 59-61).

As to claim 15, pneumatic circuit characterized in that the pressure control means features a pneumatically driven actuator (Column 6, Lines 56-59).

As to claim 16, pneumatic circuit characterized in that the pressure control means features at least one valve (Column 6, 61-65).

As to claim 17, pneumatic circuit characterized in that the feed pump (40) is a vane-cell-pump, in particular a vane-cell pump with means to reverse rotational direction. *Robbins* discloses a pump with an opposing pair of pumping chambers each for periodically receiving and then expelling said fluid under pressure (Claim 1). *Robbins* further discloses that the as the polarity of the voltage coupled in the solenoid coil which is encompassed in the pump, the solenoid shaft will be driven in the reverse direction for exhausting the fluid or air from within the first pumping chamber and ingesting the fluid the fluid or air into the second pumping chamber (Column 4, Lines 60-64). Thus, the solenoid shaft will be electrically driven in a reciprocal motion to pressurize the fluid transmitted through the exhaust tubing (Column 4, Lines 65-68).

As to claim 18, pneumatic circuit characterized in that the circuit features at least one output valve (Column 6, Lines 61-65) which opens a connecting line (Column 6, Line 64) when a specific pressure limit is reached on the suction side of the pump in order to supply additional working fluid to the system (Column 6, Lines 66-68; Column 1-4).

As to claim 19, pneumatic circuit characterized in that the circuit features at least one sensor element (80), which acquires information

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about the car temperature and adjusts the seat temperature reflective of this temperature to either cool or heat the seat. (Column 5, Lines 24-57).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CELENE MOORER whose telephone number is (571)270-7411. The examiner can normally be reached on M-F 7:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Melba Bumgarner can be reached on (571)272-4709. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. M./
Examiner, Art Unit 4138

/Melba Bumgarner/
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